



DR

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:)
MERTZ, Jr., Kenneth A.)
5 Serial No.: 10/604,880) Art Unit: 3652
Filed: August 23, 2003) Examiner: KRAMER, Dean J.
Date: April 21, 2006)

PETITION REQUESTING WITHDRAWAL OF HOLDING OF ABANDONMENT DATED

10 **APRIL 4, 2006**

AND

RESPONSE TO OFFICE ACTION RECEIVED APRIL 15, 2006 -- AMENDMENT

Sir:

15 In response to the Notice of Abandonment, applicant hereby petitions the Director of the U.S. Patent and Trademark Office pursuant to 37 C.F.R. 1.181(a) requesting withdrawal of the holding of abandonment on the ground that the Office Action was never received. MPEP 711.03(c)(I)(A).

Applicant learned of the putatively pending Office Action during a check of the
20 private PAIR web site on or about March 31, 2006. Practitioner regularly checks the private PAIR web site for activity on all dockets identified with his customer number. No activity had been seen on PAIR for applicant's application since the August 15, 2005 "Response to Election / Restriction Filed" notation. The file jacket for applicant, as well as adjacent files in the cabinet, and applicant's docket record were immediately
25 searched, indicating no Office Action had been received corresponding to the date of the putative Office Action (August 26, 2005). A copy of applicant's docket record is attached

as Exhibit A, verifying that no entries were made after August 15, 2005, when applicant's restriction election was filed. (See arrow, Exhibit A, p.2.)

Examiner Kramer was contacted by telephone by practitioner on April 4, 2006. Examiner confirmed PTO records indicating that a paper Office Action was supposed to 5 have been mailed on August 26, 2005. Notice of Abandonment was mailed from the PTO the same day and received by practitioner on April 7, 2006.

Applicant never received the Office Action until downloading it from the private PAIR web site on April 15, 2006. Thus, in accordance with MPEP 711.03(c)(I)(A), 10 applicant hereby requests withdrawal of the holding of abandonment for good cause shown, and start of the statutory period for response on the date of applicant's receipt of the Office Action, April 15, 2006.

In furtherance of prosecution of the subject application without delay, a complete response to the Office Action follows.

Sincerely,

15 
Jonathan R. Smith

Reg. No. 47098

Exhibit A *A.1*



APPLICANT (if highlighted, applicant action required within 60 days)	docket no.	appl. type	provisional filing date	provisional exp. Date	date prov. filing receipt mailed	date non-prov. filing receipt mailed by PTO	client notified of filing	electronically? y or clear	Request filed ("y") or rescinded (date) or clear if not filed	1st OA response time (mos.)	client notified of IDS req'mt?	1st office action date	nonpub. Request filed ("y") or rescinded (date) or clear if not filed	1st OA response time (mos.)	client notified of IDS req'mt?	
Mertz	MER.0101								y	y			23-Aug-03	16-Sep-03	y	1

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IDS due w/o fee	date IDS filed, if any	response to 1st OA due (red on wht means caution: resp. not yet entered by PTO)		response to 2nd OA due (red on wht means caution: resp. not yet entered by PTO)		response to 3rd OA due (red on wht means caution: resp. not yet entered by PTO)		3rd OA response entered by PTO
		1st OA response entered by PTO	2nd office action date	2nd OA response entered by PTO	3rd office action date	3rd OA response entered by PTO	3rd OA response entered by PTO	
07-Oct-03		11-Aug-05	15-Aug-05					



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	response to 4OA due (red on wht means caution: resp. not yet entered by PTO)	4th OA response time (mos.) (default is 3) entered by PTO)	4th OA response entered by PTO	foreign filing D/L based on earliest priority claim	client notified of foreign filing options/ publication requirements? y or clear will show yellow if today is within 90 days of either the f/ d/l or the pub date	client chooses not to foreign file (or application is a nonpub. continuation)	D/L to rescind request by default	actual publication date	expected publication date	date allowed	issue fee D/L paid
4th office action date				y							

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issue date	patent term adjustment (days)	notify client of OG offer for sale opportunity?	3.5 yr fee paid	7.5 yr fee paid	11.5 yr fee paid	11.5 yr maint due date	patent expiration date	CAUTION	PCT priority date (normally US nonprov. filing date. CAUTION) US apps.)	PCT request filing date (fill in on rows for PCT and US apps.)	PCT fee payment deadline (highlighted until paid)	PCT fee paid date

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PCT designation confirm D/L.	PCT designation confirm date	PCT search report date	PCT amendment due (if needed)	PCT amendment filed	PCT ch. II demand due (if desired)	PCT ch. II demand date	PCT written opinion report date	PCT written opinion comments due	PCT written opinion comments filed	PCT nat'l stage D/L (CAUTION)	PCT nat'l stage filing date	misc. deadline enter comment only	abandoned by client (y), withdrawn from case (date), or expressly abandoned (date)	abandoned No.	10/604,880

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EFS/PAIR confirmation no. 1879

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